

CHIPPEWAS OF MNJIKANING FIRST NATION
Being a band within the meaning of the *Indian Act*

LAW: 01-04

Being a Law to repeal and replace

By-Law No. 03-02

Enacted this 2nd day of March, 2004

WHEREAS the Chippewas of Mnjikaning First Nation has and recognizes its inherent right of self-government and jurisdiction to pass laws to provide for the health and safety of the residents on and visitors to the Mnjikaning First Nation Territory, the prevention of nuisances, the protection against and the prevention of trespass by domestic animals, matters arising out of or ancillary to the exercise of powers under this section, and the imposition of a penalty for the violation of any such law;

AND WHEREAS the Chief and Council of the Chippewas of Mnjikaning First Nation are of the opinion that the uncontrolled ownership, breeding and running at large of animals may be detrimental to the health and safety of the residents on or visitors to the Mnjikaning First Nation Territory, and a nuisance to such residents or visitors;

AND WHEREAS the Chief and Council of the Chippewas of Mnjikaning First Nation did enact law No.80-13 on the 2nd day of June, 1980, and wish to repeal said Law No. 80-13 and replace it with this law;

NOW THEREFORE the Chief and Council of the Chippewas of Mnjikaning First Nation enact a law as follows:

1. **Short Title**

This law may be cited as the “**Mnjikaning Animal Control Law**”.

2. **Interpretation**

In this law:

2.1 “**animal**” means dog, cat or any domestic or other animal, kept on Mnjikaning First Nation by any person

2.2 “**Animal Control Officer**” means a person appointed pursuant to section 3, or any Mnjikaning First Nation By-Law Enforcement Officer and includes an Officer of the Mnjikaning Police Force and a person employed by the Chief and Council of the Mnjikaning First Nation, plus an S.P.C.A. Agent for the purpose of enforcing this law as necessary

- 2.3 “**animal register**” means the register kept by the Animal Control Officer for the purpose of the registration of all dogs and other domestic animals on the Mnjikaning First Nation
- 2.4 “**at large**” or “**running at large**” means
- (a) off the premises of the owner; or
 - (b) not under the control of any person and in any event not on a leash
- 2.5 “**band**” means the Mnjikaning First Nation Chief and Council
- 2.6 “**cat**” means any cat, male or female, over the age of twelve (12) weeks
- 2.7 “**animal pound**” means the animal shelter designated by Chief and Council of the Chippewas of Mnjikaning First Nation
- 2.8 “**council**” means the Council of Mnjikaning First Nation as defined in the *Indian Act*
- 2.9 “**dangerous dog**” is a dog that, in the absence of any mitigating factor(s), has:
- (a) attacked, bitten, or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so as solely determined by Mnjikaning First Nation Animal Control Officer;
 - (b) significantly injured a domestic animal; or
 - (c) a dog previously designated as a potentially dangerous dog, that is kept or permitted to be kept by its owners in violation of the requirements for such dog
- 2.10 “**dog**” means any dog, male or female, over the age of twelve (12) weeks
- 2.11 “**dwelling**” means each single unit being a fully detached home, a semi-detached home, a multiple attached home, an apartment, trailer, tent and any building, facility or vehicle used or intended to be used for human habitation and in which normal domestic functions may be carried on
- 2.12 “**medical officer of health**” means the medical officer of health appointed by a motion of Chief and Council of Mnjikaning First Nation
- 2.13 “**mitigating factor(s)**” means a circumstance which excuses aggressive behavior of a dog and, without limiting the generality of the foregoing, may include circumstances where:
- (a) the dog was, at the time of the aggressive behavior, acting in defense of an attack from a person or other animal;

- (b) the dog was, at the time of the aggressive behavior, acting in defense of its young or to a person or other animal trespassing on the property of its owner; or
- (c) the dog was, at the time of the aggressive behavior, teased, provoked or tormented

2.14 “**muzzle**” means a humane fastening or covering device that is:
(a) of adequate strength placed over the animal’s mouth to prevent it from biting;
(b) approved by the Animal Control Officer.

2.15 “**owner**” means a person who possesses a domestic animal and, where the owner is a minor, the person responsible for the custody of the minor

2.16 “**reserve**” means the Mnjikaning Indian Reserve No. 32

2.17 “**warning**” means to notify a person in advance that if the behavior of the animal continues then the animal will be impounded

3. **Animal Control Officer**

3.1 The Council may appoint by Band Council Resolution an Animal Control Officer to provide for the administration and enforcement of this law, including to receive registration and to issue identification tags.

3.2 The Council may, by way of motion, provide for reasonable remuneration to be paid to the Animal Control Officer.

4. **Registration and Identification of Dogs**

4.1 Every owner of a dog shall annually on or before the first of January have their dog registered, numbered, described and licensed at the Mnjikaning Government Office or any other such place as designated by motion.

4.2 Every person keeping more than one dog per household shall have a registration tag placed around the neck of each dog.

4.3 Every dog born on the Mnjikaning First Nation Territory shall be licensed and registered by its owner within eight (8) weeks after its birth.

4.4 Every dog brought onto the Mnjikaning First Nation Territory shall be licensed and registered by its owner within two (2) weeks of being brought onto the reserve.

4.5 A fee payable for each license shall be in accordance with Schedule A of this Law as amended from time to time and shall be due annually on or before the first of January.

- 4.6 Upon payment of a license fee for a dog, the owner shall be furnished with a dog tag bearing a serial number and the year in which it was issued and shall be kept securely attached to the dog at all times until the tag is renewed or replaced.
- 4.7 The tag may be removed from the dog while it is being lawfully used for the purpose of hunting.
- 4.8 A replacement tag may be obtained and a fee payable according to Schedule A.
- 4.9 It is an offense to use a tag on any other dog than the dog that the tag is registered to.

5. **Immunization of Animals**

- 5.1 All domestic animals must be immunized in accordance with generally accepted veterinary standards.
- 5.2 The owner of any animal exposed to rabies shall, on demand of the Animal Control Officer or Chief and Council, surrender the animal to be held in quarantine for a period of fourteen (14) days and such animal shall not be released without the written approval of a medical officer of health, governed by Health Canada.
- 5.3 An owner, upon demand of the Animal Control Officer or Chief and Council, shall surrender such animal which has bitten any person in an unprovoked attack.
- 5.4 Any animal found to be infected with rabies shall be destroyed by its owner or by the Animal Control Officer at the expense of the owner.

6. **Designating Potentially Dangerous, Dangerous or Restricted Dogs**

- 6.1 Where the Animal Control Officer designates a dog as potentially dangerous or dangerous, the Animal Control Officer shall serve written notice upon the owner requiring that the owner comply with the following requirements:
 - (a) to keep the designated dog confined within the owner's dwelling and under effective control of an adult or in an enclosed pen constructed with a secure top, sides and either a secure bottom effectively attached to the sides or the sides embedded in the ground to a minimum depth of 30 centimeters (1 foot), or as otherwise approved by the Animal Control Officer in accordance with s. 6.1(a);
 - (b) to keep the designated dog under the effective control of an adult and under leash that is approved by the Animal Control Officer and not to exceed 1.8 meters (6 feet) in length, at all times when not confined;
 - (c) to securely attach a muzzle as defined in s. 2.14 to the designated dog at all times when not confined in accordance with s. 6.1 (a);

- (d) to provide the Animal Control Officer with the new address and telephone number of the owner within two (2) working days of moving the designated dog;
- (e) to provide the Animal Control Officer with the name, address and telephone number of the new owner within two (2) working days of selling or giving away the designated dog ;
- (f) to advise the Animal Control Officer within two (2) working days of the death of a designated dog;
- (g) to advise the Animal Control Officer forthwith if the designated dog is running at large or has bitten or attacked any person or animal.

6.2 No person shall own or keep a restricted breed. Restricted breeds of dogs are as follows:

- (a) Doberman pinchers;
- (b) Pit bulls;
- (c) Rotweillers; or

any other breed or mixed-breed animal as deemed by Chief and Council.

6.3 All restricted breed animals currently owned by members of Mnjikaning First Nation as of the date of the passing of this law are exempt from section 6.2 only with respect to the ownership of a current animal(s), provided that such animal(s) is registered with Mnjikaning First Nation in accordance with this Law, and no further off-spring of such animals or future ownership of a restricted breed shall be allowed.

6.4 Any animal(s) qualifying as exempt under section 6.3 must be muzzled at all times when outside of the owner's dwelling and tethered and leashed in accordance with the provisions of this law. Failure to comply with this section or this law may result in an order by the Animal Control Officer to remove or destroy the exempted animal without notice to the owner.

6.5 The Animal Control Officer may, without notice to the owner, immediately destroy an animal which is a restricted breed.

7 Notice

7.3 The notice referred in s.6.1 shall include:

- (a) a statement that the Animal Control Officer has reason to believe that the dog is a potentially dangerous, dangerous or restricted dog;
- (b) the requirements that the owner must comply with in accordance with this law and when such requirements take effect and;

- (c) a statement that the owner may request, within seven (7) working days of the receipt of notice and is entitled to a hearing by a committee designated by Chief and Council of Mnjikaning First Nation which may affirm or rescind the designation and the committee may substitute its own designation or requirements that the owner must comply with pursuant to s. 8.3 of this law.

8 Appeal

- 8.3 Where the owner of a dog receives notice from the Animal Control Officer designating a dog as potentially dangerous, dangerous or restricted, requests in writing to Chief and Council of Mnjikaning First Nation, within three (3) working days of such notice, a committee to be known as the Appeal Committee shall hold a hearing within five (5) working days after receipt of the written request for a hearing and such committee may:
- (a) affirm or rescind the Animal Control Officer's designation of the dog;
 - (b) substitute its own designation of the dog and/or
 - (c) substitute its own requirements of the owner of a designated dog.

However, during the appeal period, the owner must keep the dog contained to the owner's dwelling and comply with any other term or condition with the exception of destruction.

9 Inquiry

- 9.3 The Animal Control Officer may, either on his/her own initiative or as a result of a complaint received from a resident or visitor to the Mnjikaning First Nation Territory, conduct an inquiry into whether a dog should be designated a potentially dangerous, dangerous or restricted dog.

10 Serving Notice(s)

- 10.3 Any notice(s) served by the Animal Control Officer or requests for hearings made by an owner pursuant to this law shall be made by hand delivery or prepaid registered mail and in the event of prepaid registered mail, shall be deemed received on the 3rd working day after the date of the mailing.
- 10.4 For the purposes of this law time will run concurrently.

11 Prohibitions Within Specific Areas of the Mnjikaning First Nation Territory

- 11.3 Chief and Council may, at any time, prohibit the keeping of animals within any area of the Mnjikaning First Nation Territory.
- 11.4 Notice of any prohibition made by Chief and Council shall be posted in the Mnjikaning Government Office and after the date of posting, no person shall keep or have an animal in the prohibited area.
- 11.5 No person shall establish, own or operate a facility for the purpose of boarding or treatment of animals without the express written authorization from Chief and Council by way of motion.

12 Impounding and Seizures

- 12.1 No owner shall permit an animal belonging to him/her to be at large on the Mnjikaning First Nation Territory.
- 12.2 An animal found to be at large on the Mnjikaning First Nation Territory may be impounded for not less than five (5) days and may after that be humanely destroyed or otherwise disposed of, unless such animal has been claimed by its owner and the costs incurred for the impounding of the animal have been paid.
- 12.3 An Animal Control Officer may seize any animal from any person whom he/she has reasonable cause to believe is violating, or has violated or is about to violate any provisions of this law.
- 12.4 If an animal is apprehended because it has inflicted a bite upon an animal or human, the Animal Control Officer shall impound the animal for such a period of time to be specified by the Animal Control Officer.
- 12.5 Upon impounding an animal, the Animal Control Officer shall:
 - (a) notify the owner in writing or by telephone;
 - (b) the written notification must be hand delivered or sent by registered mail if owner not available; and
 - (c) the notification shall advise of the impounding of the animal, the hours during which the shelter is open, the fee necessary to reclaim the animal, the possible disposition of the animal if not reclaimed and the date by which the animal must be reclaimed.
- 12.6 Subject to s. 12.2 an Animal Control Officer who has seized an animal pursuant to s. 12.3 shall restore possession of the animal to its owner where:
 - (a) the owner claims possession of the animal within five (5) working days after the date of seizure;
 - (b) the owner pays all expenses incurred in securing, caring for and feeding the animal;
 - (c) where the owner has failed to purchase an identification tag, he/she obtains the registration identification from the Animal Control Officer before he/she obtains the release of the animal.

- 12.7 Where an animal has not been claimed within the specified period of time, the Animal Control Officer or the designated animal pound, may humanely destroy or dispose of the animal and no damages or compensation may be recovered as a result.
- 12.8 If an animal is found to be diseased, the Animal Control Officer shall seek veterinary attention for it where the owner has declined, failed or neglected to do so; any fee arising out of this shall be charged to the owner of the animal.
- 12.9 Whereas in the opinion of the Animal Control Officer an animal seized under this section of the law is injured or should be destroyed immediately for humane reasons, or is for reasons of health or safety of other animals or humans, shall destroy the animal as soon as he/she deems fit without permitting any person to claim the animal and no damages or compensation may be recovered on account of such action.
- 12.10 When an animal has been impounded, the Animal Control Officer shall make every reasonable effort to notify the owner of such animal.
- 12.11 A written report of every such incident in this section shall be filed with Chief and Council.

13 Destruction Where Unable to Seize

- 13.1 Where the Animal Control Officer, after reasonable effort, is unable to seize an animal that is running at large contrary to the provisions of this law, he/she may destroy the animal.
- 13.2 No damages or compensation may be recoverable as a result of the destruction of an animal pursuant to s. 19.1.

14 Protection From Dogs

- 14.1 Any Animal Control Officer or Mnjikaning First Nation Police may immediately and without notice to the owner destroy a dog that is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying;
 - (a) a person
 - (b) another animal
 - (c) a food cache, harness or other equipment, or
 - (d) domestic livestock.

15 General

- 15.1 Every owner of a dog shall keep the dog safely tethered or penned up at all times.
- 15.2 A dog need not be tethered or penned up if the dog:
 - (a) is being used by a person for the purpose of hunting;

- (b) is being used by a person to work in a lawful manner with sheep or cattle; or
- (c) is used by a visually impaired person as a guide dog.
- 15.3 The owner of an animal who fails to take all necessary measures to ensure that such an animal does not enter upon the property of another person without being under the control or in the possession of the owner is guilty of an offence.
- 15.4 The owner of an animal which causes damage to any property including movable property, lawns, flower beds, bushes or plants or other parts of property, is guilty of an offence.
- 15.5 The owner of an animal shall, when the animal is on public property or private property belonging to another person, immediately pick up and thereafter dispose of any feces, vomit or other waste left by the animal on the said property.
- 15.6 Where a potentially dangerous, dangerous or restricted dog has been impounded for any reason, the Animal Control Officer shall not restore the said dog to its owner or any other person unless the Animal Control Officer is satisfied that the person to whom the dog is to be restored is aware of and in compliance with the provisions of this law.
- 15.7 The Animal Control Officer shall keep a record of every dog impounded or seized under this law, including a description of the dog, the license and the tag number and the date of disposition and the disposition made.
- 15.8 Whereas the owner of a designated dog which has been impounded is unable to demonstrate compliance with the provisions of this law to the satisfaction of the Animal Control Officer, or refuses to do so, the Animal Control Officer or designated animal pound may, after a reasonable period of time;
 - (a) dispose of the dog in a humane manner;
 - (b) sell the dog for such a price as the Animal Control Officer deems reasonable, for the recovery of costs incurred by Mnjikaning First Nation in the impounding and holding of the animal, the money from such a sale shall belong to the Chippewas of Mnjikaning First Nation.
- 15.9 Any dog impounded not wearing a tag for the current year may be given an inoculation to provide immunization against rabies and this inoculation can only be given by a veterinarian.
- 15.10 Mnjikaning First Nation, its agents and servants, and the Animal Control Officer shall not be liable for damages or compensation for any animal destroyed or seized under the provisions of this law and no such damages or compensation shall be paid to any person.
- 15.11 No owner shall permit a dog to bark, yelp and growl or otherwise annoy or disturb the peace of the residents of the Mnjikaning First Nation.
- 15.12 No person shall punish or abuse an animal in a manner or to an extent that it is cruel or unnecessary.

15.13 By-law No. 03-02 enacted on the 9th day of June, 2003, being a by-law to regulate the care and control of animals on the Mnjikaning First Nation Territory be and the same is hereby repealed.

16 Penalties

16.1 Every person who contravenes any provision of this law is liable for a fine of five hundred dollars (\$500.00) for a first offence, seven hundred and fifty dollars (\$750.00) for a second offence and one thousand dollars (\$1,000.00) for each offence thereafter.

17 Fees for Licenses

17.1 Fees are determined from time to time under this law by Chief and Council.



Chippewas of Mnjikaning First Nation
Interoffice Memorandum

To: Jeffery Hewitt, Legal
From: Daniel Shilling, First Nation Manager
Date: March 2, 2004.
Subject: **AMENDING MOTION: #2003-2004-234 -Mnjikaning Animal Control By-law No. 03-02**
CC: Allison Sawyer

MOTION #2003-2004-234-AMENDEMNT-Moved by quorum of Chief and Council to adopt and enact the Animal Control By-Law No. 03-02, as amended, effective immediately.

“Carried”



Chippewas of Mnjikaning First Nation
Interoffice Memorandum

To: Jeffery Hewitt, Legal

From: Daniel Shilling, First Nation Manager

Date: March 2, 2004.

Subject: **AMENDING MOTION: #2003-2004-194 -Mnjikaning Animal Control By-law No. 03-02**

CC: Allison Sawyer, By-law Officer

MOTION #2003-2004-194-AMENDMENT-Moved by quorum of Chief and Council to empower the Mnjikaning By-law Officers with the powers conferred upon them as deemed necessary by Chief and Council from time to time, and specifically as set out in Animal Control By-law No. 03-02, as amended, effective immediately.

“Carried”